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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|----------------------------------|
| 10/029,635 | 06/05/2002 | George R. Garrick | 005386.P001R | 6105 |
| 7590 Judith A. Szepesi Blakely, Sokoloff, Taylor & Zaffman LLP 12400 Wilshire Blvd, Seventh Floor Los Angeles, CA 90025-1026 | 03/08/2007 | | EXAMINER WINDER, PATRICE L | ART UNIT 2145 PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 03/08/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|-----------------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/029,635 | GARRICK ET AL. | |
| | Examiner Patrice Winder | Art Unit 2145 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 18-29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17,30-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The second invention as represented by claims 18- 29 is held in abeyance in a withdrawn status in accordance with MPEP §1450 as being specific to reissue applications.

Reissue Applications

2. This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

- (a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or
- (b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action. (Although the paper submitted on September 6, 2005 includes a reel and frame number, the party submitting the information does not appear to be authorized.)

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code 102 not included in this action can be found in a prior Office action.
4. Claims 1-10, 12-15, 17 and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Robinson, USPN 5,918,014 (hereafter referred to as Robinson).
5. Regarding claim 1, Robinson taught a process for measuring effectiveness of a web site having a test web page (column 4, lines 58-61),
the process comprising:
 - having a plurality of versions of the test web page (different visitors to a Web page see different Smart Ads, column 4, lines 8-13, 39-42), the test web page representing an entire display available when a user visits a particular web site address (website including a Smart Ad, column 4, lines 39-50);
 - distributing requests to the various versions of the test web page according to a predetermined distribution function (column 4, lines 25-30, 44-53); and
 - counting visits to one or more hyperlinks from each version of the test page to determine a relative effectiveness of each version of the test web page (column 3, line 67 – column 4, line 6, column 4, lines 58-61).
6. Regarding dependent claim 2, Robinson taught said predetermined distribution function is a sequential function (column 3, lines 3-7, column 4, lines 51-53).
7. Regarding dependent claim 3, Robinson taught said predetermined distribution function is a random function (column 3, lines 3-7, column 4, lines 51-53).

8. Regarding dependent claim 4, Robinson taught distributing requests comprises:
receiving requests for the test web page (user makes a request for hosting web site, column 4, lines 39-42);

directing said request to one of the versions of the test web pages in accordance with the predetermined function (column 4, lines 44-53).

9. Regarding dependent claim 5, Robinson taught further comprising:
repeating the process (column 4, lines 1-6);
after a period, evaluating a success of each version of the test page (column 16, lines 53-58); and

selecting a version having a highest success rate, and setting the test web page to the selected version (column 16, lines 59-67).

10. Regarding claim 6, Robinson taught a process for directing requests for a test web page having predetermined universal resource location (URL) (column 4, lines 39-46) comprising:

having a plurality of versions of the test web pages (different visitors to a Web page see different Smart Ads, column 4, lines 8-13, 39-42), a test web page associated with the URL and displayed to a user when the user visits the URL (website including a Smart Ad, column 4, lines 39-50);

distributing requests to a version of the test web page according to a predetermined distribution function wherein said requests are distributed by directing requests for said test page to one or more versions of the test page in accordance with a predetermined distribution function (column 4, lines 25-30, 44-53); and

measuring a relative effectiveness of each version of the test web site, based on this success percentage (column 3, line 67 – column 4, line 6, column 4, lines 58-61).

11. Regarding dependent claim 7, Robinson taught said predetermined distribution function is a random function (column 3, lines 3-7, column 4, lines 51-53).

12. Regarding dependent claim 8, Robinson taught said predetermined distribution function is a sequential function (column 3, lines 3-7, column 4, lines 51-53).

13. Regarding claim 9, Robison taught a method of measuring the effectiveness of a web page having different versions, the method comprising:

displaying a version of the web page to a user (different visitors to a Web page see different Smart Ads, column 4, lines 44-47), the web page associated with a location on the World Wide Web visited by user by selecting the location address (website including a Smart Ad, column 4, lines 39-50), and the version selected according to a predetermined function (column 4, lines 25-30, 47-53);

for each version of the web page, counting occurrences of desired behavior of the user to track the effectiveness of that version of the web site (column 3, line 67 – column 4, line 6, column 4, lines 58-61).

14. Regarding dependent claim 10, Robinson taught further comprising upon completion of testing:

identifying an effective version of the web page based on the percentage of success of achieving the desired behavior (column 4, lines 1-6); and
setting the web page to a most effective version of the web page (column 16, lines 53-67).

15. Regarding dependent claim 12, Robinson taught versions of the web page may differ in one or more of the following: layout, images, content, links, hypertext elements, complexity (column 4, lines 8-13).

16. Regarding dependent claim 13, Robinson taught each version of the web page only varies in one feature, such that each feature of the web page is independently tested for effectiveness (column 4, lines 8-13, 44-50).

17. Regarding dependent claim 14, Robinson taught the most effective version of the web page includes each feature having a highest rate of occurrences of the desired behavior (column 4, lines 1-6, column 9, lines 24-35).

18. Regarding dependent claim 15, Robinson taught the versions of the web page may be generated on-the-fly, when a request for the web page is received (column 4, lines 39-42).

19. Regarding dependent claim 17, Robinson taught the successful response comprises one or more of the following: reading the web page, following a link, purchasing an item, filling-in a form, interacting with the web page, downloading data from the web page (column 9, lines 24-35).

20. Regarding claim 30, Robinson taught a computer data signal embodied in a carrier wave (column 1, lines 16-24) comprising:

an HTML code segment indicating an HTML code to indicate the start of a web page (website including a Smart Ad, column 4, lines 39-50);

a web page display code segment to display a version of the web page to a user (column 4, lines 44-47), the version selected from a plurality of versions of the web page

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according to a predetermined distribution function (different visitors to a Web page see different Smart Ads, column 4, lines 8-13, 25-30, 47-53);

an evaluation code segment to count the occurrence of a desired behavior of the user to track the effectiveness of each version of the web page (column 3, line 67 – column 4, line 6, column 4, lines 58-61).

21. Regarding dependent claims 31-32, Robinson taught the successful or effectiveness comprises one or more of the following: reading the web page, following a link, purchasing an item, filling-in a form, interacting with the web page, downloading data from the web page (column 9, lines 24-35).

Claim Rejections - 35 USC § 103

22. The text of those sections of Title 35, U.S. Code 103 not included in this action can be found in a prior Office action.

23. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Jakob Nielsen et al., Improving System Usability Through Parallel Design (hereafter referred to as Nielsen).

24. Regarding dependent claim 11, Robinson does not specifically teach the most effective version of the web page is not identical to any of the versions tested. However, Nielsen taught the most effective version of the web page is not identical to any of the versions tested, the most effective version of the web page includes features from more than one version of the web page (Parallel design, page 29). It would have been

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obvious to one of ordinary skill in the art at the time the invention was made that incorporating Nielsen's merged versions of user interfaces in Robinson's system for measuring web page effectiveness would have improved system utility. The motivation would have been to have a version that is the best of the test web page.

25. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Wexler, USPN 5,960,409 (hereafter referred to as Wexler).

26. Regarding dependent claim 16, Robinson does not specifically teach the versions of the web page are static web pages, generated in advance, and further comprising: configuring the versions of the test page in effective parallel paths.

However, Wexler taught the versions of the web page are static web pages (column 4, lines 47-51), generated in advance (column 3, lines 36-40), and further comprising: configuring the versions of the test page in effective parallel paths (column 5, line 45-column 6, line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Wexler's parallel paths in Robinson's system for measuring web page effectiveness would have improved system efficiency.

The motivation would have been to yield a faster final design.

Response to Arguments

27. Applicant's arguments filed September 6, 2005 have been fully considered but they are not persuasive.

28. Applicant argues – “Thus, Robinson’s invention is concerned with altering only the contents of an area on a web page... In contrast, Robinson discusses a Smart Ad Box, which is not associated with particular web address which the user is visiting.”

a. Robinson clearly taught that the Smart Ad is associated with the hosting website address through rules supplied by website administrators, see column 5, lines 30-67.

29. Applicant argues – “As noted above, Robinson’s Ad box is not associated with the URL visited by the user, but is rather an independently inserted snippet, or page portion.”

b. Robinson clearly teaches that the rules developed by website administrators to chose the inserted Smart Ads include rules to associate the Smart Ad with websites containing particular subject matter, see column 5, lines 30-45. Applicant emphasizes the terminology “association”, but “association” includes the act of linking the hosting website and the Smart Ad based on the subject matter.

30. Applicant argues – “Rather, Robinson specifically notes that the content of the Smart Ad Box is loaded from a different address, one that is not selected by the user.”

c. The user selects the “location address” of the hosting web site that includes a Smart Ad Box. Applicant’s language at present does not exclude the Smart Ad Box being loaded from a different location address.

31. Applicant argues – “Since Robinson’s Smart Ads are not complete web pages, they do not include an indication of a start of a web page.”

d. Smart Ad Box’s are hosted by websites that incorporate a plurality of webpages that contain an indication of a start. Thus, the host website incorporates a indication of a start for the Smart Ad Box.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. Ferguson et al., USPN 5,819,092: taught using metering information to determine what areas of a website are more frequently visited; and

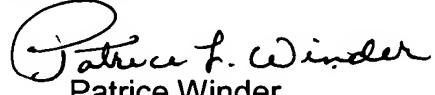
34. Kirsch, USPN 5,751,956: taught measuring the effectiveness of a portion of a webpage by counting the number of redirected client requests.

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-

3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrice F. Winder
Patrice Winder
Primary Examiner
Art Unit 2145

February 28, 2007